



**Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 32
AGENDA DATE: Thu 06/17/2004
PAGE: 1 of 1**

SUBJECT: Set a public hearing to consider a request for a waiver of the 300 foot minimum distance requirement of Section 4-9-4(A) of the City Code, between Asahi Imports, a business that proposes to sell alcoholic beverages at 6105 Burnet Road, and a public school, Lamar Middle School at 6201 Wynona Avenue. (Suggested date and time: June 24, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Watershed Protection and **DIRECTOR'S**
DEPARTMENT:Development Review **AUTHORIZATION:** Joe Pantalion

FOR MORE INFORMATION CONTACT: Luci Gallahan, 974-2669; Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The applicant, Sally Matsumae, owner of Asahi Imports, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the City Code because the business intends to sell alcoholic beverages at a grocery store that is located 175 feet from a public school, Lamar Middle School, at 6201 Wynona Avenue.

Section 4-9-5 allows the City Council to waive the 300-foot distance requirement if it determines that enforcement of the distance requirement in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or the inefficient use of land or other resources;
- (3) creates an undue hardship on an applicant;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Section 4-9-5(B) provides that the City Council may consider a written consent to the waiver of the 300-foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the proposed place of business to be sufficient justification for the waiver. Written consent to allow the waiver has been received from Mike Atchley, Principal of Lamar Middle School.

STAFF REPORT

ALCOHOLIC BEVERAGE WAIVER REQUEST

CASE NUMBER: SP-04-0176AW

LOCATION OF PROPOSED BUSINESS: 6105 Burnet Road

NAME AND LOCATION OF PUBLIC SCHOOL WITHIN 300 FEET OF PROPOSED RESTAURANT: Lamar Middle School, 6201 Wynona Avenue

ZONING: CS

USE: Food Sales

APPLICANT: Sally Matsumae

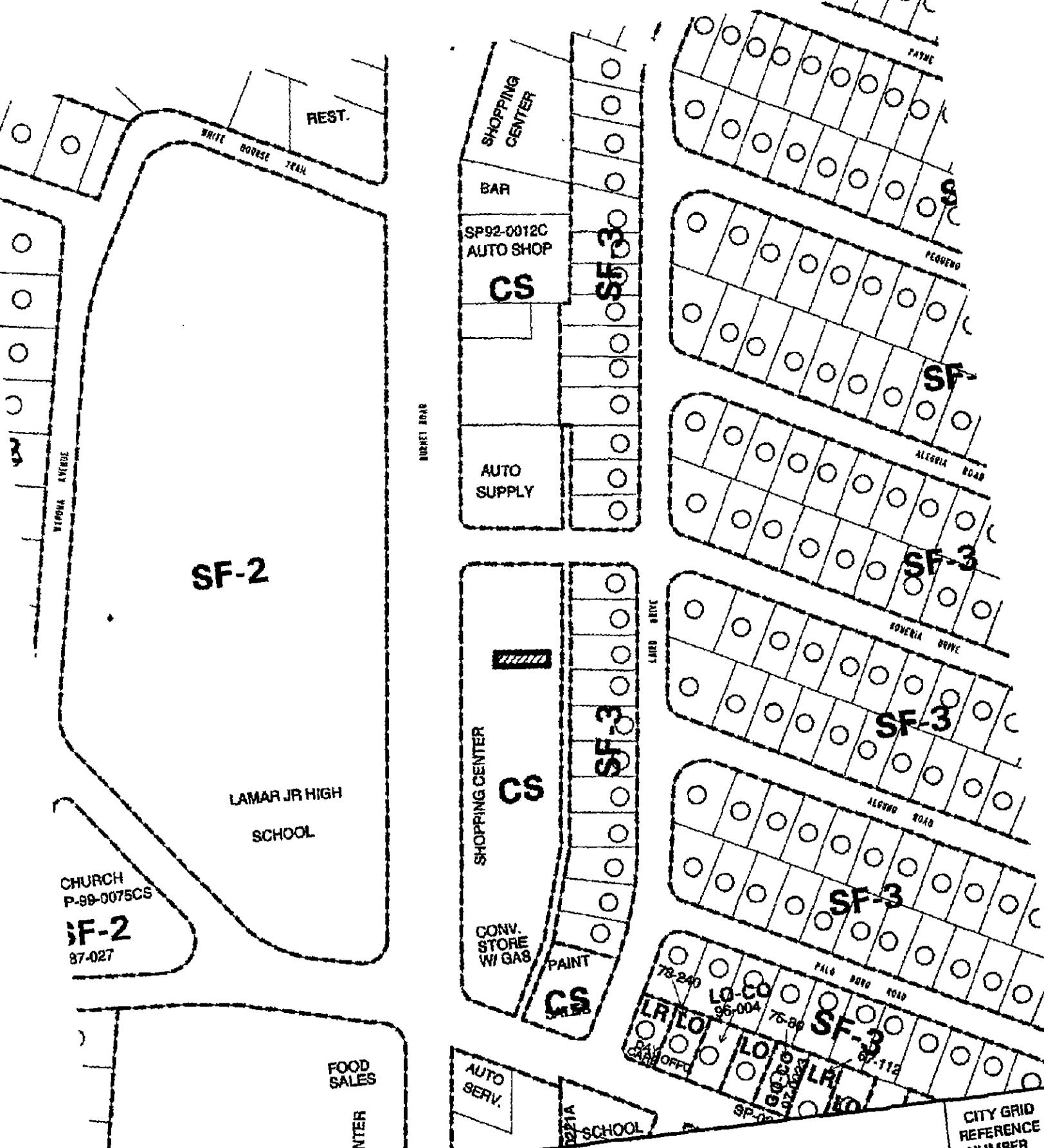
REQUEST:

The applicant, Sally Matsumae, requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code in order to sell beer and wine at a proposed grocery store. The grocery store is located at 6105 Burnet Road, which is 175 feet from a public school, Lamar Middle School, at 6201 Wynona Avenue.

Section 4-9-5(A) allows the City Council to waive the 300-foot distance requirement if they determine that enforcement of the distance requirement in a particular instance:

- (1) is not in the best interest of the public;*
- (2) constitutes waste or the inefficient use of land or other resources;*
- (3) creates an undue hardship on an applicant*
- (4) does not serve its intended purpose*
- (5) is not effective or necessary; or*
- (6) for any other reason the City Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.*

Section 4-9-5(B) provides that the City Council may consider a written consent to the waiver of the 300-foot distance requirement provided by each church, public school, public hospital, day-care center or child-care facility within 300 feet of the business to be sufficient justification for the waiver. Mr. Mike Atchley, Principal of Lamar Middle School, has provided written consent for the waiver.



1" = 200'

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

CASE MGR: L. GALLAHAN

SITE PLAN

CASE #: SP-04-0176(AW)

ADDRESS: 6105 BURNET ROAD

SUBJECT AREA (ACRES): N/A

DATE: 04-05

INTLS: SM

CITY GRID REFERENCE NUMBER J28

Asahi Imports
100 West North Loop
Austin, TX 78751

RE: Consent for Alcoholic Beverage Waiver

Dear Mr. Matsumae:

- As principal of Lamar Middle School, I, Mike Atchley, approve of your company's application to the TABC and your request to the city for an Alcoholic Beverage Waiver. I understand that if your application is approved and your request for a waiver is granted, your business will be engaged in selling alcohol for off-premise consumption.

I understand that your company, Asahi Imports, is applying for a "Retailer's Off-Premise Beer and Wine License" (BQ) with the TABC. Lamar Middle School and I do not have any objections to your company applying for a BQ License.

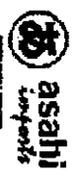
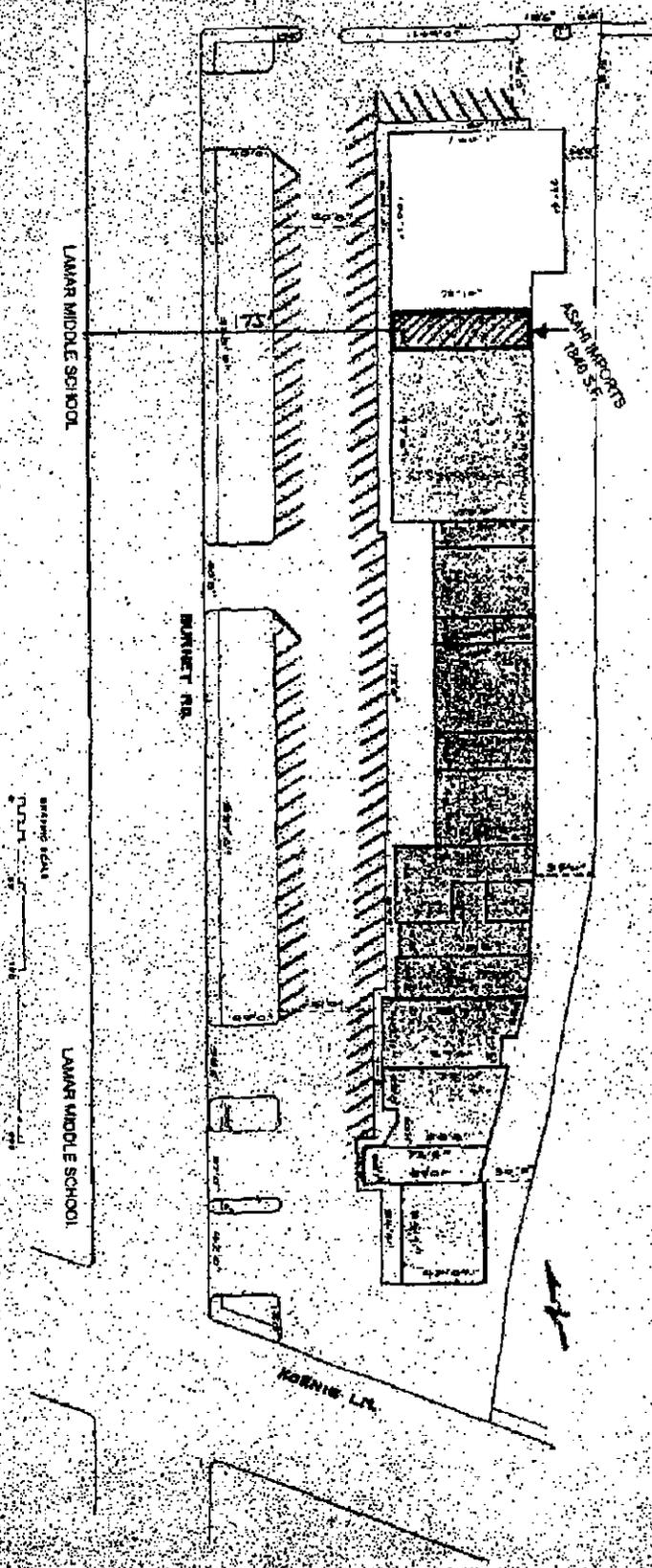
I understand that your relocation to 6105 Burnet Road will place your store within 300 feet of our school grounds. I also understand that, according to the City of Austin Code, in order for your business to continue to sell Japanese beers and wines, your company will have to apply for an Alcoholic Beverage Waiver with the city. Lamar Middle School and I do not have any objections to your company requesting a waiver and we would support the Council's decision to grant your request.

If you or anyone involved in the processing of your application or waiver request should have any questions, they may contact me at 512-414-4507 or matchley@austin.isd.tenet.edu.

Sincerely,

Mike Atchley 4-21-04

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